IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO.285 OF 2007

The State of Maharashtra ..Applicant

Vs.

Mohamad Abbas Mohamed Sakoor Shaikh
and Another ..Respondents

Mr.Dr.F.R.Shaikh, Additional P.P. for the Applicant.
None for the Respondents.

**CORAM :- DR.S.RADHAKRISHNAN &
SMT.R.S.DALVI,JJ.**

DATE : 8TH AUGUST,2007

P.C.

1. Heard the learned Additional P.P.for the State. None appears for the Respondents, though served. By this Criminal Revision Application, the State is challenging the order dated 13th March,2007 passed by the IVth Adhoc Additional Sessions Judge, Sewree, Mumbai, rejecting both the Applications filed by the State. By the first Application Exhibit-37, the Applicant State had sought to produce a document being the opinion obtained by the Investigating Officer from the Hand Writing Expert, which will be of immense value to the prosecution. By another Application Exhibit-41, the Applicant had sought permission to produce a muddemal article being a wrist watch. Both the aforesaid Applications were rejected by the learned Sessions Judge, mainly on the ground that the Investigating Officer had not shown proper interest and had not produced the same at the relevant time, though the prosecution had examined eight witnesses.

2. The learned Sessions Judge ought not to have rejected the above Applications, only on the ground of some lapse on the part of the Investigating Officer. In the larger interest of a proper Criminal Trial, the learned Sessions Judge ought to have allowed the above Applications, especially when even final arguments had not taken place.

3. Having regard to the aforesaid facts and circumstances of the case and also in the larger interest of justice, it will be fair and just to permit the Applicant-State to rely upon the said opinion of the Assistant Examiner of documents, which was sought to be produced, as per Application being Exhibit-37. It appears that though the muddemal was lying with the prosecution, it was not produced by the prosecution due to inadvertence, and hence, the Application Exhibit-41 was filed by the State seeking thereby a permission to produce the muddemal article. Under the aforesaid facts and circumstances of the case, we are inclined to quash and set aside the order dated 13th March,2007 passed by the IV Adhoc Additional Sessions Judge, Sewree, Mumbai and allow the Applications at Exhibit-37 and Exhibit-41 before the said Sessions Judge.

4. Accordingly, the order dated 13th March,2007 passed by the learned IV Adhoc Additional Sessions Judge, Sewree, Mumbai is hereby quashed and set aside

and the both the aforesaid Applications being Exhibits-37 and 41 before the learned Sessions Judge stand allowed. The learned Sessions Judge is hereby directed to hear and dispose of the above Sessions Case after recording further additional evidence in that behalf, in view of the above two Applications.

5. Application stands disposed of accordingly.

(SMT.R.S.DALVI,J.) **(DR.S.RADHAKRISHNAN,J.)**